

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 18, 2001

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
COMPUTATION OF PRICE REGULATIONS
INDEX AND SERVICE PRICE INDEX**

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**DOCKET NO.
00-00545**

**ORDER APPROVING PRICE REGULATION FILING
BY BELLSOUTH TELECOMMUNICATIONS, INC.**

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at the regularly scheduled Authority Conference held on January 9, 2001 for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth") Computation of Price Regulation Index and Service Price Index filing.

Background

BellSouth filed an application with the Tennessee Public Service Commission ("TPSC") on June 20, 1995 to operate under price regulation pursuant to Tenn. Code Ann. § 65-5-209.¹ On January 23, 1996, the TPSC entered an order implementing BellSouth's price regulation plan and requiring BellSouth to reduce its rates by approximately 56.3 million dollars. BellSouth filed a petition in the Tennessee Court of Appeals on February 4, 1996 for review of the TPSC's order. The Court of Appeals issued decisions and orders on October 1, 1997 and November 19, 1997 vacating the TPSC's January 23, 1996 order.

¹ BellSouth's application was filed in TPSC Docket No. 95-02614 which after remand from the Court of Appeals became TRA Docket No. 95-02614.

On June 29, 1998, the Court of Appeals issued its Mandate to the Authority to implement the Court's decisions of October 1, 1997 and November 19, 1997.

On October 27, 1998 the Authority deliberated on BellSouth's application for a price regulation plan and approved BellSouth's application with an effective date of October 1, 1995. The Authority's *Order Approving BellSouth's Telecommunications, Inc.'s Application for Approving BellSouth's Telecommunications, Inc.'s Application for Price Regulation Plan*, entered on December 9, 1998, set forth the following provisions for BellSouth's price regulation plan:

Increases in BellSouth's initial rates for Basic Local Exchange Telephone Service shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(f).

Increases in BellSouth's rates for Call Waiting shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(h).

Annual adjustments in BellSouth's basic and nonbasic rates pursuant to Tenn. Code Ann. § 65-5-209(e) shall be calculated from December 1, 1998, and the calculation of the Service Price Index for basic and nonbasic services shall be based upon service volumes for the month of December for the year of the annual filing and upon service prices in effect on December 1, 1998 or as reset by the Authority under Tenn. Code Ann. § 65-5-207.

Annual adjustments in BellSouth rates for Interconnection Services pursuant to Tenn. Code Ann. § 65-5-209(g) shall be calculated from December 1, 1998.²

The Authority's December 9, 1998 Order also provided that BellSouth's price regulation plan would be subject to the price regulation methodology stipulated to in *United*

² In re: *Application of BellSouth Telecommunications, Inc. for a Price-Regulation Plan*, TRA Docket No. 95-02614, *Order Approving BellSouth's Telecommunications, Inc.'s Application for Approving BellSouth's Telecommunications, Inc.'s Application for Price Regulation Plan*, p. 21, (December 9, 1998).

Telephone Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment,
Docket No. 96-01423.

The Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") for a Petition for Review in the Tennessee Court of Appeals on February 9, 1999 seeking a reversal of the Authority's December 9, 1998 Order. The Court of Appeals issued an opinion on January 10, 2000 affirming the Authority's Order and issued a Mandate on May 10, 2000 which remanded the docket to the Authority for further proceedings.

BellSouth's June 26, 2000 Filing

On June 26, 2000, BellSouth submitted to the Authority calculations of its December 1, 1999 Price Regulation Index ("PRI") and Service Price Index ("SPI") pursuant to Tenn. Code Ann. § 65-5-209. This was BellSouth's first such filing pursuant to its price regulation plan. In its June 26, 2000 filing, BellSouth included 911 Emergency Services, ESSX Station Lines, MultiServ Plus Station Lines, Centrex Station Lines and Basic Rate ISDN in the non-basic services category in calculating the PRI and SPI even though the Authority had previously determined that such services should be categorized as basic local exchange telephone services ("basic services").³ With its filing BellSouth provided a statement acknowledging the Authority's previous decisions in which the aforementioned services were classified as basic services, but explained that it included those services in the non-basic category of services to preserve its position that they are non-basic services.

³ "Basic local exchange telephone services" and "non-basic services" are defined in Tenn. Code Ann. § 65-5-208(a). Tenn. Code Ann. § 65-5-209(f) provides that "the initial basic local exchange telephone service rates of an incumbent local exchange telephone company shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation." This initial four-year freeze does not apply to rates for non-basic services, which may be increased as long as such increase complies with the formula set forth in Tenn. Code Ann. § 65-5-208(e).

BellSouth's June 26, 2000 filing came before the Directors at a regularly scheduled Authority Conference held on July 11, 2000.⁴ The Authority found that, by classifying these services as non-basic, the amounts of revenues in both basic and non-basic service categories would result in a distortion of the price cap calculations. Accordingly, the Authority required BellSouth to refile its price regulation filing classifying 911 Emergency Services, ESSX Station Lines, MultiServ Plus Station Lines, Centrex Station Lines and Basic Rate ISDN calculation into the proper basic services category. The Directors also suggested that BellSouth work with Authority staff in refileing its price cap calculations. Thereafter the Authority issued data requests to BellSouth on September 21, 2000. BellSouth filed its responses to those data requests on October 5, 2000. In addition, representatives of BellSouth met with Authority staff members in an attempt to resolve the Authority's concerns.

BellSouth's December 4, 2000 Price Regulation Filing

On December 4, 2000, BellSouth filed a revised computation of the December 1, 1999 PRI and SPI. In its revised filing, BellSouth reclassified and modified its categorization of basic and non-basic services to address the Authority's concerns and to reflect prior decisions of the Authority.⁵

At the January 9, 2001 Authority Conference, after review of the revised filing and the supporting information, the Authority determined that BellSouth's PRI and SPI for non-basic services had been calculated in accordance with Tenn. Code Ann. § 65-5-209

⁴ The Consumer Advocate and Protection Division of the Office of the Attorney General did not petition to intervene in this docket; however, it did file a letter with the Authority on July 7, 2000, expressing its concerns regarding BellSouth's filing.

⁵ The revised filing also complies with the Authority's decision made at the November 21, 2000 Conference in Docket No. 00-00873, *Tariff Revisions to Modify ESSX, Digital ESSX, and ESSX ISDN Rates*, in which the ESSX intercom rate element, ESSX ISDN and Centrex ISDN were ruled basic services.

and the methodology approved by the Authority, including all orders issued concerning United Telephone-Southeast's prior price regulation filings.

Moreover, the Authority found that BellSouth's current prices for non-basic services were less than the maximum prices allowed under Tenn. Code Ann. § 65-5-209, thereby creating headroom within which future rate increases might be made. According to the PRI and SPI, BellSouth had approximately \$18.2 million in available headroom for rates in its non-basic services category.⁶

Upon reviewing BellSouth's December 4, 2000 filing, including the analysis of the price cap calculations and supporting documentation, the Authority found that BellSouth's filing complied with Tenn. Code Ann. § 65-5-209, the Authority's previously approved price regulation methodology,⁷ and previous orders of this Authority.

Based on these findings, the Directors voted unanimously to approve the non-basic SPI and PRI calculations in BellSouth's December 4, 2000 price regulation filing. The Directors also voted unanimously to deny approval of the SPI and PRI indexes for basic services, having found that such services are subject to the four-year price freeze set forth in Tenn. Code Ann. § 65-5-209 (f), and to establish those indexes at the end of the four (4) year price freeze.

IT IS THEREFORE ORDERED THAT:

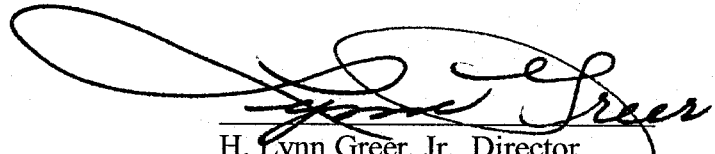
1. BellSouth's Computation of its Price Regulation Index and Service Price Index, filed on December 4, 2000, is approved.

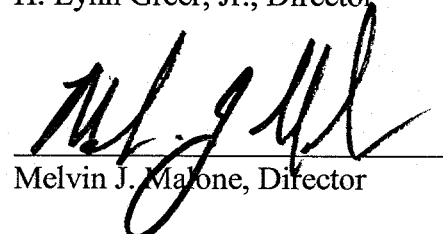
⁶ Headroom represents the difference between actual aggregate revenues and aggregate revenues allowable under the formula set forth in Tenn. Code Ann. § 65-5-209 (e). In this instance, headroom has been created primarily due to access reductions which have been partially offset by rate increases to Complete Choice Service and various custom calling services. BellSouth, however, is not proposing to change any basic or non-basic rates in this filing.

⁷ See *Consumer Advocate Division v. Tennessee Regulatory Authority*, No. M1999-01699-COA-R12-CV, 2000 WL 1514324 (Tenn. App. Oct. 12, 2000).

2. Approval of BellSouth's PRI and SPI for basic services is denied but will be established at the end of the four (4) year price freeze on basic services.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary